

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF WIRELESSCO., L.P. D/B/A)
SPRINT SPECTRUM, L.P. FOR ISSUANCE OF A)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO CONSTRUCT A PERSONAL) CASE NO. 96-240
COMMUNICATION SERVICES FACILITY IN THE)
LOUISVILLE MAJOR TRADING AREA [LONGRUN)
PCS FACILITY LV03XC0085B5])

O R D E R

On November 1, 1996, Ronald Snyder, an intervenor in this case ("Intervenor"), filed a motion to dismiss the application of WirelessCo, L.P. ("WirelessCo") for a certificate of convenience and necessity to construct a personal communications services ("PCS") facility. As grounds for his motion, Intervenor states that WirelessCo failed to respond to his concerns by October 25, 1996, as directed by the Commission's Order of October 15, 1996.

Subsequently, WirelessCo filed a document entitled Applicant's Response to Motion to Dismiss ("Response"). The Affidavit of Marshall Hazelhurst, Response Exhibit A, ("Affidavit") states that the Order requiring written response to the Intervenor was "inadvertently overlooked." However, WirelessCo has now responded in writing to Intervenor. See Response Exhibit A-1. In addition, WirelessCo representatives have met with, and spoken to, various persons who oppose the construction, including Intervenor. See Affidavit, Paragraph 5. The Commission is deeply disturbed by WirelessCo's failure to comply with the Order as written and urges it to take measures to ensure that future

Orders will not be "inadvertently overlooked." However, WirelessCo's verbal communications to Intervenor, together with its November 4, 1996 letter formally addressing Intervenor's concerns, constitutes substantial compliance with the Order. Consequently, the Commission does not deem it necessary to take further action regarding this incident.

As a final matter, this Commission is entrusted by the Commonwealth to ensure, inter alia, that utility service is adequate and reliable. See KRS Chapter 278. The purpose of this proceeding is to determine whether the proposed facility is necessary to provide adequate and reliable service. Consequently, it would in any case be inappropriate to dismiss this application on the grounds urged herein.

IT IS THEREFORE ORDERED that the motion to dismiss is denied.

Done at Frankfort, Kentucky, this 19th day of November, 1996.

PUBLIC SERVICE COMMISSION


For the Commission

ATTEST:


Executive Director